

LSG management agreement for performers

entered into and by the performer

Please write in capital letters!

Surname: _____ First Name: _____

In the event of legal succession, please state the name and nationality of the artist whose rights you hold:

Pseudonym(s): _____

Artistic activity/ies (please state, e.g. the instrument/s you play or, if you are a singer, your vocal pitch or any other sort of artistic activity/ies as well as the groups/ensembles you may be a part of):

Date of Birth: _____ Nationality: _____

Street: _____

Area Code, Town: _____

E-Mail: _____

hereinafter referred to as 'rights holder' or 'beneficiary' and

LSG – Wahrnehmung von Leistungsschutzrechten GesmbH,
Seilerstätte 18-20/2. Stock (Interpreten-Verrechnung), 1010 Vienna

hereinafter referred to as 'LSG':

General

LSG is a collecting society in accordance with the Austrian Collecting Societies Act 2016 (VerwGesG 2016) (Federal Law Gazette I no. 27/2016) which carries out its activities by virtue of the management license awarded by the regulatory authority.

The corporate purpose of LSG is to act as a trustee and collectively exercise and utilise rights, participatory claims and claims to remuneration for its beneficiaries in accordance with the copyright laws in the name of LSG but on behalf of the beneficiaries and to distribute the proceeds that were thus achieved to them. Beneficiaries of LSG may be holders of rights and claims of the audio media's producer, the producer of music videos as well as the rights and claims of performers (with the exception of film actors) with respect to their (live or recorded on film or audio media) performance or artistic participation in such performances as well as their legal successors.

The object of this agreement are the performer's and their legal successors' rights and claims.

1. Granting of rights

The rights holder tasks LSG with the exclusive management of rights arising from the performer's existing or future participatory claims or claims to remuneration (§§ 66 et seq. UrhG – Austrian Copyright Act) on a fiduciary basis under the conditions and to the extent specified and selected in the following. Insofar as specific items on the following list of rights applicable for specific types of exploitation are not clearly crossed out by the rights holder, which would indicate the wish to not have LSG manage these rights, and which can limit possible remuneration from social, cultural, and/or educational institutions paid to the rights holder, the rights holder grants LSG the sole and exclusive rights of use as well as participatory claims and claims to remuneration for the purpose of rights management in trust and they will refrain from exercising their rights or having them exercised by others:

(any items on the following list that are not desired are to be marked by crossing out the entire text box)

1.1. a) for the management of rights for the reproduction and distribution in accordance with § 68 paragraph 1 line 1 UrhG on image and audio media to be utilised for a public reproduction and for the management of rights for the public display using such means of reproduction;

1.1. b) for the management of the right to reproduction and distribution in accordance with § 68 paragraph 1 line 1 UrhG on image and audio media to be utilised for a broadcast and for the management of rights for broadcasts using such means of reproduction;

1.2. for the management of the right to reproduction and distribution in accordance with § 68 paragraph 1 line 1 UrhG on image and audio media to be utilised in churches, schools, and education, and for the management of rights for broadcasts and the public reproduction using means of reproduction produced for such purposes;

1.3. for the management of the right to reproduction and distribution in accordance with § 68 paragraph 1 line 1 UrhG on image and audio media and for the management of the right to make such content publicly available in accordance with § 68 paragraph 1 line 1 UrhG, limited, however, to the case where there is an infringement of rights;

1.4. for the management of the right to prohibit the broadcasting and/or public reproduction using illegally produced or distributed audio media (§ 68 paragraph 2 UrhG) and, in case of an impending infringement or one that has already taken place, to claim possible compensation;

1.5. a) for the enforcement of claims to remuneration or participatory claims in accordance with § 76 paragraph 3 UrhG for the public reproduction of an audio medium that was produced for trade purposes or an audio medium that was made available to the public;

1.5. b) for the enforcement of claims to remuneration or participatory claims in accordance with § 76 paragraph 3 UrhG for the broadcasting of an audio medium that was produced for trade purposes or an audio medium that was made available to the public;

1.6. for the enforcement of claims to remuneration or participatory claims in connection with the transmission of broadcasts including satellite broadcasts using cables ('transmission via cable and satellite');

1.7. for the enforcement of claims to remuneration for the reproduction for personal or private use in accordance with § 71 paragraph 1 and 42b UrhG, both in connection with § 42 paragraph 2 and 3 as well as 5 to 7 UrhG (blank tape levy);

1.8. for the management of the right to simultaneous or delayed transmission of my performance from local broadcasters to foreign broadcasters (including via satellite) and for the possible reproduction and distribution of such broadcasts abroad, provided that they are broadcasts of public speeches or (stage) performances that are not hosted by the Austrian Broadcasting Corporation (ORF);

1.9. for the enforcement of claims to remuneration and/or participatory claims in case of a reproduction for audio and image media made available for education and teaching at schools, universities, and other educational institutions (§§ 42g in connection with § 71 paragraph 6 UrhG);

1.10. for the enforcement of claims to remuneration and/or participatory claims if audio or image media are rented out and/or lent and for the enforcement in case of an infringement of the rental rights (§§ 16a in connection with 68 paragraph 4 UrhG);

1.11. for the management and enforcement of the claim to remuneration and the right to information in accordance with § 76 paragraph 8 UrhG arising from the reproduction, distribution, and making audio media publicly available after the 51st year after the beginning of the term of copyright, insofar as the performer's rights were granted the producer for a fixed remuneration;

1.12. for the management of rights and claims arising from the linear transmission (streaming) of audio media produced for commercial purposes or which were made publicly available in the form of simulcasting, webcasting, and IPTV in accordance with § 76 paragraph 3 UrhG as well as the reproduction and distribution on image or audio media (data carriers) for this purpose in accordance with §§ 68 paragraph 1 line 1 and § 76 paragraph 1 UrhG;

1.13. for the management of the right to make performances publicly available but limited to the use in form of podcasting and media libraries and as background music on websites (in accordance with § 69 paragraph 1 line 1 UrhG), in each case in accordance with the present agreement or other definitions or specifications described more closely in the annex;

1.14. for the enforcement of autonomous rights to information and disclosure of accounts in accordance with §§ 87a and 87b as well as 90a UrhG;

1.15. for the enforcement of personal rights, in particular the right to be named and the right to protection from change (§ 67 UrhG), which is, however, limited to cases of infringement of this right;

The granting of rights also applies in case of the exploitation of the beneficiary's works in parts, sections or when they are altered etc.

2. Territorial scope

2.1. The granting of rights in accordance with section 1 shall generally be effective for the management in all countries of the world, provided that the respective rights exist in the respective country.

The beneficiary has the option provided by law, to limit the granting of the abovementioned rights geographically. In case the beneficiary should wish to make use of this option, they should clearly and unequivocally indicate this on the *attached sheet* (Austria cannot be excluded as a whole).

2.2. In case the beneficiary possesses rights and/or claims in another state that exceed those mentioned in section 1 and that are managed by another management society or similar institution then they also grant LSG these rights for their fiduciary management.

2.3. With respect to the management of the rights it was granted, LSG and the representing societies tasked by it have the right to enter into agreements on the management of the rights administered by them with foreign businesses that pursue similar objectives.

In case LSG does not become sufficiently and effectively active in a certain country, neither by itself or based on reciprocal agreements or agency agreements with foreign societies with the same business objective (to see the constantly growing list of states where LSG collaborates with partner societies see www.lsg.at), the beneficiary may request the retransfer for the geographic area of the respective country.

3. Guarantee

3.1. The beneficiary guarantees that their performances are free of third party rights to the extent described above, that they are fully authorised with respect to the granted rights and that no licence agreements exist and that- in particular with respect to the rights granted within the framework of the present agreement - there is no (factual, temporal or territorial) overlap with a management contract with another collecting society or independent management institution, made either directly or indirectly (via an agency or similar).

Should the case arise that, at the time the mentioned rights are transferred, the beneficiary is de facto not in possession of these rights – e.g. because of an earlier (partial) granting of rights to other persons – which would mean that the transfer of rights turns out to be ineffective, it is their duty to indemnify LSG, in particular in order to compensate other businesses LSG may have commissioned in order to manage the rights and to pay back the unjustly received funds including the legal rate of interest intended for business transactions.

The rights holder declares in a legally binding fashion to refrain from managing rights and claims with which he has commissioned LSG and not to commission others to do so.

3.2. The rights holder also undertakes to provide further written declarations (powers of attorney, publication of cessions, tax numbers etc.) at his own cost if requested by LSG or businesses commissioned by LSG, if so necessary for the effective management of the rights and claims granted by him.

4. Permission of non-commercial exploitation

In case of the unlimited granting of all rights listed above the rights holder still has the right – according to the following conditions decided on by the LSG advisory board – to permit others to use their protected works for non-commercial means:

The rights holder must communicate their intention to allow the exploitation for non-commercial means to LSG in writing and within four weeks. In case this is connected with several types of exploitation, they must ensure that LSG is informed of these types of exploitation, detailing the type, user, time, duration, and location beforehand.

Exploitation is non-commercial when it is neither directly nor indirectly targeted at achieving a direct or indirect financial advantage or profit. It is of no importance who benefits from such an advantage or profit in connection with the exploitation.

The rights holder can never permit the non-commercial exploitation of types of exploitation that are by law foreseen to result in legal claims to remuneration or participatory claims.

LSG further points out that the non-commercial exploitation of a performance protected by copyright by the rights holder may have an effect on the protected rights other people hold (e.g. author, producer of the audio media, performer, publisher, editor etc.) which is something the rights holder should point out to the user, particularly seeing as this possibility should be clarified before the exploitation.

In case rights or claims of another one of LSG's rights holders are affected by the non-commercial exploitation and this party has not given its express authorisation, it is LSG's duty to manage their rights.

5. Duration, termination, and modification of the agreement

5.1. The rights are granted for the duration of the legal copyright protection, including possible shared protection periods or possible changes. In case the future legal situation should diverge and in case the legal situation abroad should diverge, corresponding rights are seen as granted. The granting of rights also applies if the rights holder has acquired the rights as a result of singular or universal succession.

The agreement is made for an indefinite period of time and takes effect once it is validly countersigned by LSG and once the admission fee (see below) has been received.

5.2. The agreement can be terminated in written form by each of the involved parties subject to a term of six months before the end of the year. Consequently, statements of termination that reach LSG after June 31 will only become valid by the end of the following year. In such a case, the date when the written and signed termination reaches LSG shall be decisive. The agreement may also be partially terminated in the same manner but only applying to specific countries and rights as specified above. The rights or countries in question must be clearly stated in the written termination.

Contingent on the extent of the (partial) termination, the rights and claims granted to LSG in accordance with section 1 and in connection with section 2 go back to the rights holder once the agreement ends (at the turn of the year) without there being a need for a specific retransfer act.

One reason for termination from LSG's side would be if there has not been any exploitation that would result in a claim in favour of the rights holder for the past five years.

Permits for the exploitation of the work that were granted by LSG before the complete or partial termination of the management agreement remain unaffected.

The rights holder keeps their rights and claims with regards to proceeds that arise from to the exploitation before the end of the agreement or from the authorisation of use granted earlier.

5.3. Changes to the form under use here and published on the LSG website 'LSG management agreement for performers' which – with exception of the choice of rights and countries made by the rights holder – correspond to the text of the present agreement will also take effect for the rights holder unless they terminate the management contract within four weeks after having been informed of the change in written form (e.g. via e-mail).

The extension of the scope of the rights and claims managed by LSG becomes effective provided that the rights holder does not object to them within four weeks in a written and personally signed document (a PDF document will suffice) that is sent to LSG. Limitations of the scope of management on the side of LSG will also take effect.

5.4. If the rights holder is a natural person, the management agreement shall remain effective even after the rights holder's demise, the legal successor/s shall take their place. It is the legal successor's/successors' duty to provide proof of the legal succession (e.g. a legally valid transfer decision; certificate of inheritance etc. – in case the document is in a foreign language a certified translation is necessary) by producing the appropriate public documents. Prior to this LSG shall not be obliged to make any payments. This also applies in case of several legal successors so long as they have not unanimously chosen a common representative towards LSG and document this decision.

6. Other rights and responsibilities and conditions

6.1. LSG shall harness the rights it was granted, in particular by granting exploitation permits and/or exploitation rights to third parties, it shall receive the returns, invoice them and draw up a receipt. For the purpose of managing rights abroad LSG possesses the right to have other collecting societies or independent collecting institutions exercise the rights and enter in appropriate agreements. This applies to all or a part of the rights it was granted in trust. LSG also possesses the right to hold stakes in other collecting societies.

6.2. LSG has the right to judicial and extrajudicial assertion of the rights and claims to remuneration it was granted in its own name. This is valid without prejudice to possible parallel enforcement rights held by the rights holder in person.

6.3. The sole conclusion of the management agreement constitutes no recognition of the existence of rights and/or claims to remuneration or other claims on the rights holder's side by LSG. It is the rights holder's responsibility to provide LSG with the necessary information and documents (contracts, discographies etc.) needed for the assertion and management of the rights and claims. If no such documents are produced as are necessary to investigate the existence of a right or claim with regards to one or several works, LSG shall have no obligation to manage the alleged right. The same is equally valid with respect to the necessary information and documents for the distribution. The present agreement also comprises all of the rights holder's performances using a known or unknown pseudonym and/or that were or are published under said pseudonym. The performer undertakes to inform LSG of the pseudonyms – and the discographies – immediately after they have been used in a relevant fashion.

The rights holder will be held liable for any disadvantages arising from incompletely or incorrectly provided information.

6.4. For performers who are not nationals of EEA states the following applies in particular: since such performers only have claims in Austria in accordance with item 1.5a and b if the original producer of the audio media was, at the time of the first recording, national of a member state of the Rome Convention, or, in case of a legal entity, had its registered office there, they will only be entitled to such a remuneration if they have provided LSG with sufficient proof that they do indeed meet the prerequisites by having the attached confirmation form filled in and signed by the producer of the audio media and handing it to LSG. In case it can be proven that the original producer of the audio media is no longer existent then the successor to the producer's rights shall fill in and sign the confirmation form to be handed to LSG.

The rights holder will indemnify LSG with respect to possible disadvantages arising from having provided incorrect information – without prejudice to possible third-party liability.

6.5. An assignment of the rights holder's claims (e.g. by way of cession) vis à vis LSG foresees that a written document be produced that covers the corresponding transaction. The contractual transfer of claims to remuneration arising from the work or types of exploitation does not have any legal effect vis à vis LSG. The payment flow resulting from contractual transfers can only occur with regard to the total amount of an invoice.

6.6. The rights holder takes note that LSG's articles of association in their valid form (see LSG website) are an integral part of the present management agreement. They include the basics of distribution. In that same sense the rights holder also accepts the rules of distribution and the rules with regards to social, cultural, and educational institutions LSG has for performers. In case of changes, the rights holder will accept these also in their changed form, irrespective of whether and in how far they had a part in the respective decision and without requiring the rights holder's consent. They are available on the LSG website.

6.7. Claims that rights holders have against LSG lapse within three years after the day of LSG's main account that was made in the following year after the exploitation that resulted in the claim (see § 90 paragraph 2 UrhG).

7. Administrative costs/deductions/settlement

7.1. The costs that arise for LSG from the management of rights and of claims to remuneration and participatory as well as other claims the rights holders have are deducted from the total earnings from the rights. The amount is determined by the expenses that effectively arose for staff, IT, offices, outside services, operating costs, law enforcement costs, proportionate costs for the state supervisory authority etc.

As one of the collecting societies that asserts claims from the so-called storage media levy (§ 42b UrhG) it is LSG's duty to create institutions that serve social and cultural purposes, and to assign 50% of the total revenue after deduction of the proportionate administrative costs arising from it to them in accordance with § 33 paragraph VerwGesG 2016.

Furthermore, LSG shall establish financial reserves for the fulfilment of unsettled claims or for future strains and identify them as such.

The rights holder shall receive an annual statement containing the revenues assigned to them, the deductions made for administrative costs, for the provision or social, cultural, and education institutions and for possible other purposes as well as the amounts distributed to the rights holder that are divided by rights categories and types of exploitation as well as the revenues that may not have been distributed yet. In case the total amount does not exceed EUR 20.00, these details will only be disclosed upon the rights holder's explicit request.

Upon conclusion of a management agreement a one-time admission fee determined by LSG's advisory board becomes due, the current amount can be inquired at the LSG-Interpretenvertretung's offices and is visible on the LSG website.

7.2. In the case that the right holder's tax residence should be located abroad and taxes or duties from the earnings arising from this agreement should be applicable in Austria, the right holder enables LSG or the businesses commissioned by LSG to do so, to deduct all taxes and duties that apply based on legal requirements with respect to their credit coming from the management of the rights set down in the agreement and from the possibly arising claims to remuneration and to pay them to the tax authorities in a timely fashion.

8. Communication/representation/data protection

8.1. The rights holder agrees to LSG duly communicating necessary information – e.g. settlements, invitations to meetings and elections etc. – electronically (e.g. via e-mail) without more ado, provided that the rights holder does possess a means of receiving them (e.g. an email account). Information and numerous announcements are communicated on LSG's website and are considered duly communicated as such, provided that this route is not excluded by law. LSG for its part also permits the rights holders to communicate electronically (in particular via e-mail).

8.2. The rights holder is to disclose their complete bank details for an account that is exclusively in their name and the rights holder accepts that LSG will only make payments via bank transfer.

The rights holder accepts that for the means of becoming a beneficiary of LSG they shall produce a valid official photo ID, proof of nationality, and documents on the effective termination of possible earlier agreements with third parties that handled rights that are subject to the present agreement at LSG's request.

8.3. Insofar as the rights holder produces protected works (performances) as part of an ensemble (choir, orchestra, etc.), they undertake to accept declarations provided by the ensemble's common representative (§ 70 paragraph 1 to 4 UrhG) vis à vis LSG. In case no common representative has been appointed or in case there is disagreement regarding the person acting as common representative, LSG shall only be required to make payments to a commonly appointed collector. In case no common representative or collector is appointed, the course of the limitation period is neither hindered nor interrupted.

8.4. In case the rights holder should make use of an authorised representative for general representation or the collection of finances, they must communicate this to LSG in a timely and personal fashion in writing and produce a written power of attorney that indicates the duration and extent of the person's authorisation. In order for it to be effective, the authority to collect must be expressly communicated to LSG; it shall potentially be considered valid by LSG until a point where it is revoked personally and in written form so as to ensure that up until that point LSG can discharge of its liabilities to the person authorised to collect.

8.5. The rights holder likewise undertakes to immediately communicate each and every change of their personal data, particularly name changes (also pseudonyms), a change of citizenship, of residence (address), e-mail address or bank data to LSG. Up until the entry of such a notice possible communications can continue to be validly delivered to the previously known address. By mutual agreement LSG shall have no obligation to deposit sums in court in cases where the rights holder has no valid bank account the payment could be made into.

8.6. The rights holder accepts that for the purpose of rights management their data is electronically stored, processed, and communicated to third parties within the legally acceptable and intended scope (e.g. to affiliated companies, supervisory authorities) and disclosed to the legally intended extent (e.g. disclosure or repertoire; disclosure of pseudonyms by authorities) as well as published (e.g. 'membership list').

9. Applicable law/jurisdiction

The present agreement as well as any disputes arising from it are subject to Austrian law. Place of jurisdiction is Vienna. Any disputes between LSG and the rights holder shall be exclusively submitted to the commercial court of the first district of Vienna, provided that no other internal or other dispute settlement procedures are (previously) foreseen by law.

Application received by LSG:

*Signature of the rights holder
(under 18 years of age parent or guardian signature)*

Mag. Thomas Dürrer/Dr. Franz Medwenitsch
LSG Wahrnehmung von Leistungsschutzrechten
GmbH, Abt. Interpreten
Seilerstätte 18–20/2. Stock, 1010 Vienna

Place, Date: _____

Place, Date: _____

Attachments:

- Confirmation form for non-EEA nationals in accordance with item 6.4
- 1 supplementary sheet for possible territorial restrictions